

Subject
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OGC Has Reviewed

Assistant Director (Personnel)

12 May 1953

Office of General Counsel

Delegation of Authority to Administer the Oath of Office

REFERENCE: Your memorandum of 16 April 1953, same subject

1. The reference requests the opinion of this office on the legality of the delegation of authority to administer oaths of office to positions rather than to individuals by name. Essentially the question which you raise is whether the term "Officers and Employees", as used in Title 5, United States Code, Section 16a restricts delegations of the subject authority to designated individuals or whether such authority can be conferred upon the positions they occupy.

2. We have been unable to discover further authorities than those cited in your memorandum bearing even remotely upon the problem, save for the provision in the Federal Personnel Manual stating that "oaths ... may be administered by any person duly designated to administer oaths under the provisions of Section 206 of the act of June 26, 1943 (SUSC 16a)." Section A 6-33. We understand that the Civil Service has in the past taken the strict position that delegations must be by name. It is not certain that this position was not adopted for purposes of uniformity of administration.

3. In our opinion these words "Officers and Employees" are used in a generic sense and not with any intent to restrict the continuity of the authority to administer the oath of office to the tenure of a designated individual in a particular position. We accordingly can visualize no legal obstacle to your proposal.

4. Previous determinations to limit the delegations to persons by name seem to have been motivated by considerations of policy. The implementation of your suggestion, therefore, will require a re-examination of this policy. In the circumstances we do not believe that a formal submission to the Comptroller General is essential to establish the existence of the necessary authority.

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Orig - Addressee - 15 May 53

4 - OGC